

TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Proposed Rule LSA Document #08-617

DIGEST

Adds 50 IAC 24 to establish formal procedures to govern the application for the standard deduction for homesteads. Effective 30 days after filing with Publisher.

50 IAC 24

SECTION 1. 50 IAC 24 IS ADDED TO READ AS FOLLOWS:

ARTICLE 24 STANDARD DEDUCTION FOR HOMESTEADS

Rule 1. General Provisions

50 IAC 24-1-1 Purpose

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 1. The purpose of this article is to establish procedures to govern the application for the homestead standard deduction established under IC 6-1.1-12-37.

50 IAC 24-1-2 Applicability

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 2. This article applies to taxpayers applying for the homestead standard deduction.

Rule 2. Definitions

50 IAC 24-2-1 Applicability

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 1. The definitions in this rule apply throughout this article.

50 IAC 24-2-2 “Dwelling” defined

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 2. “Dwelling” means:

- (1) residential real property improvements that an individual uses as the individual's residence, including a house or garage or**
- (2) a mobile home or manufactured home not assessed as real property that an individual uses as the individual's residence.**

50 IAC 24-2-3 "Homestead" defined

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 3. "Homestead" means an individual's principal place of residence that:

- (1) is located in Indiana;**
- (2) consists of a dwelling and real estate not exceeding one (1) acre that immediately surrounds the dwelling; and**
- (3) the individual owns, is buying on a recorded contract that requires the individual to pay the taxes, or is entitled to occupy as a tenant-stockholder of a cooperative housing corporation as defined in 26 U.S.C. 216.**

50 IAC 24-2-4 "Individual" defined

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 4. "Individual" means a human being.

50 IAC 24-2-5 "Principal place of residence" defined

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 5. "Principal place of residence" means an individual's true, fixed, permanent home to which the individual has the intention of returning after an absence.

Rule 3. Eligibility

50 IAC 24-3-1 Eligibility for the homestead standard deduction

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 1. An individual who in a particular year either owns or is buying a homestead under a contract, recorded in the county recorder's office, that provides that the individual is to pay property taxes, is entitled to a homestead standard deduction from the assessed value of the homestead.

50 IAC 24-3-2 Determination of "principal place of residence"

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 2. (a) A county auditor may request proof that the residence is the applicant's principal place of residence. The applicant may provide the auditor with any of the following documents to prove that the residence for which the applicant claims the homestead standard deduction is the applicant's "principal place of residence." The document(s) must contain the applicant's name and the address of the residence for which the applicant claims the homestead standard deduction:

- (1) An Indiana identification card.**
 - (2) An Indiana driver license or permit with photo issued by the State of Indiana.**
 - (3) Indiana gun permit.**
 - (4) Bank statement issued within sixty (60) days of application.**
 - (5) Form W-2 (federal or state) or Form 1099.**
 - (6) State or federal tax return.**
 - (7) Computer generated pay check stub.**
 - (8) Valid employee identification card with photo.**
 - (9) Valid Indiana professional license.**
 - (10) Valid insurance card.**
 - (11) Medicare or Medicaid card.**
 - (12) U.S. military discharge or DD214 separation papers.**
 - (13) Indiana residency affidavit.**
 - (14) Voter registration card.**
 - (15) Valid Indiana vehicle or watercraft title or registration.**
 - (16) Any other document with the applicant's name and address of the residence for which the applicant claims the homestead standard deduction that can be produced to the county auditor's satisfaction that the residence is the applicant's "principal place of residence."**
- (b) For the purpose of this rule, a Post Office Box is not an acceptable homestead address.**

50 IAC 24-3-3 Date of ownership of homestead

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 3. The individual must own the homestead real property, mobile home or manufactured home, or purchasing the real property, mobile home or manufactured home under contract which requires the buyer to pay the property taxes, on the date the application, or sales disclosure form serving as the application, is filed.

50 IAC 24-3-4 Applicability of deduction for assessment date

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37; IC 6-1.1-12-45

Sec. 4. (a) Subject to subsections (b) and (c), a homestead standard deduction applies for an assessment date and for the property taxes due and payable based on the assessment for that assessment date, regardless of whether:

(1) the title is conveyed one (1) or more times; or

(2) one (1) or more contracts to purchase are entered into;

after that assessment date and on or before the next succeeding assessment date.

(b) Subsection (a) applies:

(1) only if the title holder or the contract buyer on that next succeeding assessment date is eligible for the deduction for that next succeeding assessment date; and

(2) regardless of whether:

(A) one (1) or more grantees of title under subsection (a)(1); or

(B) one (1) or more contract purchasers under subsection (a)(2);

files an application under this chapter to claim the deduction.

(c) A homestead standard deduction under subsection (a) applies for only one (1) year. The requirements for filing an application for a homestead standard deduction apply to subsequent years.

(d) If:

(1) an application is filed on or before December 31 to claim a deduction with respect to real property; and

(2) the eligibility criteria for the deduction are met;

the homestead standard deduction applies for the assessment date in that calendar year and for the property taxes due and payable based on the assessment for that assessment date.

(e) If:

(1) an application is filed during the twelve (12) months before March 31 of the first year for which the individual wishes to obtain the homestead standard deduction with respect to an annually assessed mobile home or manufactured home; and

(2) the eligibility criteria for the homestead standard deduction are met; the deduction applies for the assessment date in that twelve (12) month period and for the property taxes due and payable based on the assessment for that assessment date.

(f) Subsections (a) through (e) notwithstanding, only (1) individual may receive a deduction for a particular homestead in a particular year.

50 IAC 24-3-5 Limitation on homestead standard deduction

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 5. (a) The county auditor may not grant an individual or married couple a homestead standard deduction if:

(1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications; and

(2) the applications claim the deduction for different properties.

(b) An individual who has sold real property, an annually assessed mobile home, or an annually assessed manufactured home to another under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home, may not claim the deduction with respect to that real property, mobile home, or manufactured home.

50 IAC 24-3-6 Removal of joint owner

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 6. An individual who receives a homestead standard deduction for property that is jointly owned with another owner in a particular year and remains eligible for the credit in the following year, is not required to reapply for the deduction following the removal of the joint owner if:

- (1) the individual is the sole owner of the property following the death of the individual's spouse;
- (2) the individual is the sole owner of the property following the death of a joint owner who was not the individual's spouse; or
- (3) the individual is awarded sole ownership of property in a divorce decree.

50 IAC 24-3-7 Change of use

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 7 (a) If an individual who is receiving the homestead standard deduction changes the use of the real property, so that part or all of the real property no longer qualifies for the homestead deduction, the individual must file a certified statement with the auditor of the county notifying the auditor of the change of use within sixty (60) days after the date of the change.

(b) An individual who changes the use of the individual's real property and fails to file the statement is liable for the amount of homestead standard deduction the individual was allowed.

Rule 4. Application for the Homestead Standard Deduction

50 IAC 24-4-1 Application Options

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 1. If an individual is otherwise required to complete a Sales Disclosure Form (State Form 46021), the Sales Disclosure Form may serve as an application for the homestead standard deduction, or an individual may apply for the deduction by completing Department of Local Government Finance Form HC10 (State Form 5473).

50 IAC 24-4-2 Application using Department of Local Government Finance Form HC10

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 2. (a) An individual who is qualified and desires to obtain the homestead standard deduction and has not applied using the Sales Disclosure Form (State Form 46021), must complete the Department of Local Government Finance Form HC10 (State Form 54730) Claim for Homestead Property Tax Credit/Standard Deduction.

(b) The form must be certified and filed, in duplicate at the county auditor's office in the county where the homestead is located during the calendar year for which the individual desires to obtain the homestead standard deduction.

(c) If an individual desires to have the receipt returned, the individual must provide the Auditor with a self-addressed, stamped envelope.

50 IAC 24-4-3 Application using Sales Disclosure Form

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 3. (a) An individual who is qualified and desires to obtain the homestead standard deduction, and is otherwise required to complete a Sales Disclosure Form (State Form 46021), may use the Sales Disclosure Form (State Form 46021) as an application for the homestead standard deduction by completing Part 1 F. Buyer(s)/Grantee(s)-Application for Deductions and Credits.

(b) The individual must provide full name, address, telephone number and e-mail as applicable. If there are two or more individuals involved in the transaction, additional ownership information must be included in an attachment to the form.

(c) The individual must indicate whether the property will be used as a primary residence.

(d) The individual must sign certifying that the form is true and correct and complete as required by law.

(e) A sales disclosure form that is submitted as a paper form or electronically, on or before December 31 of a calendar year to the county assessor by or on behalf of the purchaser of a homestead assessed as real property;

(1) that is accurate and complete;

(2) that is approved by the county assessor as eligible for filing with the county auditor; and

(3) that is filed as a paper form or electronically;

with the county auditor by or on behalf of the purchaser;

constitutes an application for the deduction with respect to property taxes first due and payable in the calendar year that immediately succeeds the

calendar year when the application was filed with the county assessor.

(f) Except as provided in subsection (g), if:

(1) the county auditor receives a sales disclosure form that meets the requirements of subsection (e); and

(2) the homestead for which the sales disclosure form is submitted is otherwise eligible for a deduction referred to in subsection (a); the county auditor must apply the deduction to the homestead for property taxes first due and payable in the calendar year for which the homestead qualifies under subsection (a) and in any later year in which the homestead remains eligible for the deduction.

(g) Subsection (f) does not apply if the county auditor, after receiving a sales disclosure form determines the homestead is ineligible for the deduction.

Rule 5. Auditor's Duties

50 IAC 24-5-1 Transmittal of Form

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-37

Sec. 1. (a) The auditor of a county with whom an application for the standard deduction has been filed, must immediately transmit a copy of the application to the auditor of any other county if the individual claims the homestead standard deduction or files an application and owns or is buying real property in the other county.

(b) The auditor of the other county referred to in Section 1, must note on the application whether the individual has claimed the homestead standard deduction for the current year for a homestead located in that county and return the application to the auditor who sent the application.

50 IAC 24-5-2 Alphabetical File of Applications

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 2. (a) Each year the county auditor must place a copy of each homestead standard deduction application filed on the Sales Disclosure Form (State Form 46021) or the Form HC10 (State Form 54730) in alphabetical order by townships; and without regard to townships, place the applications for the entire county in alphabetical order.

(b) The county auditor must ascertain from the alphabetical files whether an individual or married couple, for the same year, claims the homestead standard deduction on two (2) or more different applications for different properties.

(c) The county assessor shall retain the original sales disclosure form that serves as an application for the homestead standard deduction for five (5) years.

50 IAC 24-5-3 Certification of County Deductions

Authority: IC 6-1.1-12-37

Affected: IC 6-1.1-12-37

Sec. 3. Before April 1 of each year prior to the year in which the homestead standard deduction is allowed, each county auditor must certify to the department of local government finance the amount of the assessed valuation which qualifies for the homestead standard deduction. Before February 1 of each year, each county auditor must certify to the department of local government finance the amount of homestead standard deduction allowed in that county for that calendar year.

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